

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: **Case No. 12-12020(MG)**
RESIDENTIAL CAPITAL, LLC, et al. **Chapter 11**
Debtors **Jointly Administered**

MONTY ALLEN and HEATHER ALLEN

Creditors

MOTION FOR RELIEF FROM AUTOMATIC STAY Claim #6768

1. On April 21, 2009, Monty and Heather Allen sued Homecomings Financial, L.L.C. and other defendants including Re/Max, Inc., Re/Max Huntsville, Inc., Rise Realty, Inc., Rise Realty Parkway Plaza, Inc., Victor Englert, Charles Lanza, Jim Baker, Tommy Adams, Patrick McClain, and The Bank of New York Trust Company, Inc. (Attached Exhibit A).
2. On March 7, 2011, the plaintiffs amended the complaint and added GMAC Mortgage, L.L.C. as a party. (Attached Exhibit B).
3. After taking a corporate representative's deposition, the plaintiffs amended their complaint to add GMAC, Inc. as a defendant (Attached Exhibit C).
4. On May 22, 2012, counsel for the defendants in Lauderdale County Circuit Case No. CV 2009-900073 Monty and Heather Allen v. Homecomings Financial, et al. filed a notice of bankruptcy. (Attached Exhibit D).
5. On June 13, 2012, Lauderdale County Circuit Court Judge Michael T. Jones signed an order staying all litigation based on the notice of bankruptcy filed by the defendants. (Attached Exhibit E).
6. Monty and Heather Allen's claim did not involve any claims related to mortgages.
7. This claim involves breach of contract and fraud related to a foreclosed home Monty and Heather Allen attempted to purchase. Although the defendants signed a contract, the defendants refused to sell the home to Monty and Heather Allen.
8. As far as Monty and Heather Allen are aware, Residential Capital, L.L.C. is not a debtor involved in their litigation.

9. On September 20, 2013, Residential Capital, L.L.C. filed their 38th Omnibus Objection to Claims (Wrong Debtor Borrower Claims). (Attached Exhibit F).

10. The stated reason for the modification was the claim was filed against the incorrect debtor. The modified debtor designation was identified as Homecomings Financial, L.L.C. 12-12042. (Attached Exhibit F).

11. Although Monty and Heather Allen never received notice of the pending bankruptcy as it related to their case, in an abundance of caution, undersigned counsel filed a notice of claim on February 20, 2013. (Attached Exhibit G and Attached Exhibit H).

12. Because the debtors failed to notify Monty and Heather Allen of the pending bankruptcy, the debtors cannot disallow their claim as being untimely filed. (Attached Exhibit J).

13. On June 21, 2013, ResCap sent a letter to Monty and Heather Allen requesting additional information regarding the notice of claim filed on February 20, 2013. At no time did ResCap object to the claim as being untimely filed. (Attached Exhibit I).

14. Monty and Heather Allen responded to this request for additional information and sent the requested information on July 17, 2013. (Attached Exhibit J).

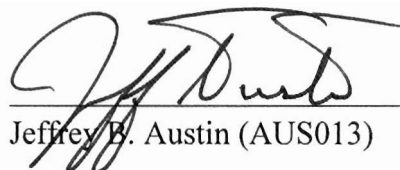
15. At no time did the debtors indicate the claim was untimely filed. Instead, they led Monty and Heather Allen and undersigned counsel to believe the claim had been appropriately filed and was being processed and accepted.

16. No other party involved in the bankruptcy will be prejudiced if the court allows Monte and Heather Allen to liquidate their claim.

17. At this time, no court or jury has determined the legal responsibility and/or the damages associated with the litigation filed in Lauderdale County Circuit Court Case No. CV 2009-900073, Monty and Heather Allen v. Homecomings Financial, et al.

18. On August 26, 2014, Lauderdale County Circuit Court Judge Michael T. Jones signed an order giving the plaintiffs 90 days to obtain leave of the bankruptcy court stay in Lauderdale County Circuit Court Case No. CV 2009-900073, Monty and Heather Allen v. Homecomings Financial, et al. (Attached Exhibit K)

19. Monty and Heather Allen move the court to allow relief from the automatic stay of the bankruptcy to allow them to liquidate the claim against the defendants.



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CERTIFICATE OF SERVICE

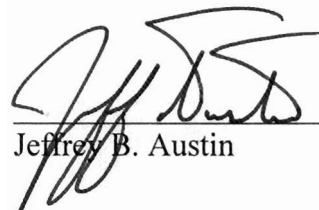
I hereby certify I have on this 24th day of Sept 2014 served a copy of the foregoing on the following attorneys and/or parties listed below:

Honorable Martin Glenn
United States Bankruptcy Court
Southern District of New York
Alexander Hamilton Custom House
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